

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION**

MARCUS ANTHONY RAY,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 3:06-cv-00213-WKW-SRW
)	
TALLAPOOSA COUNTY JAIL, et al.,)	
)	
Defendants.)	

DEFENDANTS' ANSWER

COME NOW Tallapoosa County Sheriff Jimmy Abbett and Jail Administrator Blake Jennings, Defendants in the above-styled cause, and answer¹ the Plaintiff's Complaint as follows:

Answer

The Defendants in this action deny each and every allegation made by the Plaintiff, Marcus Anthony Ray, and demand strict proof thereof. The Defendants deny that they acted, or caused anyone to act, in such a manner so as to deprive the Plaintiff of his constitutional rights.

Affirmative Defenses

1. The Plaintiff's Complaint, separately and severally, fails to state a claim upon which relief may be granted.
2. The Defendants in this action, in their individual capacities, are entitled to qualified immunity from the Plaintiff's claims.

¹ The Court has ordered these Defendants to file their Answer by April 5, 2006. The Court has also ordered these Defendants to file a Special Report by April 24, 2006, and the Defendants will be filing their Special Report by that date. Accordingly, by filing their Answer at this time, these Defendants are not waiving their right to submit their Special Report by April 24, 2006, in accordance with the Order of this Court.

3. The Defendants in this matter, in their official capacities, are entitled to absolute immunity from the Plaintiff's claims pursuant to the Eleventh Amendment to the United States Constitution.

4. Defendants in their official capacities are not "persons" under 42 U.S.C. § 1983.

5. The Plaintiff's claims are barred by the Prison Litigation Reform Act because he has failed to exhaust available administrative remedies and because he has not suffered a physical injury that is greater than de minimus.

6. Plaintiff fails to allege any affirmative causal link between the alleged acts of Defendants and any alleged constitutional deprivation or Defendants' direct participation in any alleged constitutional violation.

7. Defendants are not liable based upon *respondeat superior* theories of liability.

8. The Plaintiff cannot prove a violation of his rights under the Eighth or Fourteenth Amendments to the United States Constitution.

9. Defendants were not deliberately indifferent in any respect.

10. Plaintiff lacks standing to pursue certain of his claims.

11. Defendants reserve the right to add additional defenses upon a complete investigation of Plaintiff's claims, completion of any discovery allowed, and if any further pleading is required or allowed by the Court.

Respectfully submitted this 5th day of April, 2006.

s/Amanda Kay Morgan
GARY L. WILLFORD, JR. Bar Number: WIL198
AMANDA KAY MORGAN Bar No. ALL079
Attorneys for Defendants

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CERTIFICATE OF SERVICE

I hereby certify that on this the 5th day of April, 2006, I have electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, and that I have mailed a true and correct copy of the foregoing by United States Mail, postage prepaid, to the following non-CM/ECF participant:

Marcus Anthony Ray
Tallapoosa County Jail
316 Industrial Park Dr.
Dadeville, AL 36853
US

s/Amanda Kay Morgan
OF COUNSEL